



### DECLARATION FOR UTILITY PATENT APPLICATION

**AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:**

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: Improved Beta-Lactam Antibiotics the specification of which is attached hereto unless the following box is checked:

- was filed on May 1, 2001 as United States Application Serial No. 09/847,525.  
(applicable).

I HEREBY STATE THAT I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date
60/201,642	May 2, 2000

I hereby claim the benefit under 35 U.S.C. § 120 of the United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Application Serial No.	Filing Date	Status
		<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title of 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: October 22, 2001 By: M. Fai Chan

Name: **Ming Fai Chan**

Residence: 1642 Orchard Wood Road, Encinitas, CA 92024-5653

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Date: October 22, 2001 By: Venkata Ramana DOPPALAPUDI

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Date: October 22, 2001 By: Mark Stephen HIXON

Name: **Mark Stephen HIXON**

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Date: 10/22/01 By: Thomas J. LOBL

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#6

Applicant Ming Fai CHAN, et al.  
 Application No.: 09/847,525  
 Filing Date: May 1, 2001  
 For: Improved Beta-Lactam Antibiotics

Attorney Docket No.: NB-201600

**STATEMENT CLAIMING SMALL ENTITY STATUS  
FOR SMALL BUSINESS CONCERN (37 C.F.R. §§ 1.9(f) & 1.27(c))**

I hereby state that I am the owner of the small business concern identified below:

- the owner of the small business concern identified below;
- an official of the small business concern empowered to act on behalf of the concern identified below;

NAME OF SMALL BUSINESS CONCERN: NewBiotics, Inc.

ADDRESS OF SMALL BUSINESS CONCERN: 11760 Sorrento Valley Road, Suite E, San Diego, CA 92121

I hereby state that the above identified small business concern qualifies as a small business concern as identified in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled **Improved Beta-Lactam Antibiotics**, by inventor(s) **Ming Fai Chan, Rosario S. Castillo, Qing Li, Venkata Ramana Doppalapudi, Mark Stephen Hixon and Thomas J. Lobl**, as described in:

- the specification filed herewith with title as listed above.
- the application identified above.
- the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent invention under 37 CFR § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR § 1.9(d), or a nonprofit organization under 37 CFR § 1.9(e).

Each person, concern, or organization having any rights in the invention is listed below:

- no such person, concern, or organization exists.
- each such person, concern, or organization I listed below.

Listed below:

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

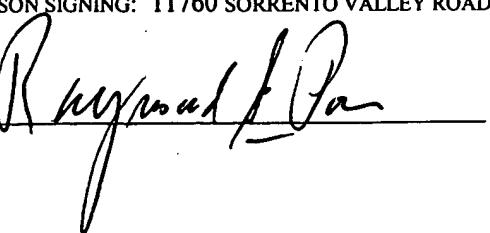
Separate statements are required from each name person, concern or organization having rights to the invention stating their status as small entities (37 CFR § 1.27).

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status of a small entity is no longer appropriate (37 CFR § 1.28(b)).

NAME OF PERSON SIGNING: RAYMOND S. POON, Ph.D.

TITLE OF PERSON IF OTHER THAN OWNER: EXECUTIVE VICE PRESIDENT

ADDRESS OF PERSON SIGNING: 11760 SORRENTO VALLEY ROAD, SUITE E, SAN DIEGO, CA 92121

SIGNATURE: 

DATE: Oct. 26, 2001